

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

GARY GREEN)	Civil No.
TDCJ# 999561)	
Petitioner)	(CAPITAL CASE)
v.)	
)	
WILLIAM STEPHENS, Director)	
Texas Department of Criminal Justice)	
Correctional Institutional Division,)	
Respondent)	
)	

MOTION FOR APPOINTMENT OF FEDERAL COUNSEL

Undersigned counsel, Brad D. Levenson, Director of the Texas Office of Capital Writs (“OCW”), respectfully moves this Court to appoint Lydia Brandt to represent Mr. Gary Green in his federal habeas corpus proceedings.

This Motion is made within the fifteen (15) day time period required by Texas Code of Criminal Procedure 11.071, section 2(e) (“If the court of criminal appeals denies an applicant relief under this article, an attorney . . . shall, not later than the 15th day after the date the court of criminal appeals denies relief . . . move for the appointment of counsel in federal habeas review under 18 U.S.C. Section 3599.”). Because the undersigned is not permitted to “represent a defendant in a federal habeas review” (*see* Tex. Govt. Code, § 78.054(b)), new counsel must now be appointed.

Mr. Green was sentenced to death in the 282nd District Court of Dallas County, Texas on November 5, 2010. On October 3, 2012, the Texas Court of Criminal Appeals (“CCA”) affirmed Mr. Green’s sentence on direct appeal. *Green v. State*, No. AP-76,458 (Tex. Crim. App. 2013). On June 24, 2015, the CCA denied relief in state habeas corpus proceedings. *Ex parte Green*, No. WR-81,575-01 (Tex. Crim. App. 2015) (unpublished).

Pursuant to Texas Code of Criminal Procedure Article 11.071, undersigned counsel and the OCW have represented Mr. Green. Mr. Green was then and is now without the means to retain counsel. Mr. Green is an indigent person, lacking the funds necessary to retain counsel and must be appointed counsel “throughout . . . all available post-conviction process, together with applications for stays of execution and other appropriate motions and procedures. . . [and] in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.” 18 U.S.C. § 3599(e); *see also Harbison v. Bell*, 556 U.S. 180 (2009).


Mr. Green is entitled to the appointment of counsel under 18 U.S.C. § 3599(a). He has never had his constitutional claims for relief addressed by a federal court. He is entitled to the assistance of counsel in order to present those claims. *See McFarland v. Scott*, 512 U.S. 849, 857-58 (1998).

Lydia Brandt is an attorney licensed to practice law in the State of Texas, the United States District Court for the Northern District of Texas, the United States Court of Appeals for the Fifth Circuit, and the United States Supreme Court. Ms. Brandt, since 1996, has represented death row inmates in their post-conviction appeals, including both state and federal habeas corpus proceedings.

Accordingly, the undersigned respectfully requests that this Court appoint Ms. Brandt as counsel for Mr. Green, pursuant to 18 U.S.C. § 3599.

Respectfully submitted,

DATED: June 30, 2015

By 
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CERTIFICATE OF SERVICE

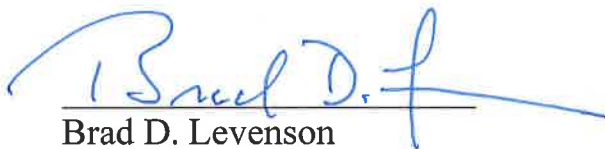
On June 30, 2015, a copy of the foregoing Motion was served on the Office of the Attorney General by United States mail at the following address:

Office of the Attorney General
Post Office Box 12548
Austin, Texas 78711-2548


Brad D. Levenson

CERTIFICATE OF CONFERENCE

No conference has been held because opposing counsel has not made an appearance in these proceedings.


Brad D. Levenson